

Registration of Assurances (Ireland) Bill.

This Bill, and the Local Registration of Title (Ireland) Bill, are intended to place the entire system of land registry in Ireland on a satisfactory basis, with special reference to recent legislation, and to the recent multiplication of the number of small proprietors.

A.D. 1889.

There has been established in Ireland since 1708 a general Registry of Deeds, in its main features similar to the systems which exist in Scotland, Yorkshire, and Middlesex. It is not proposed to disturb this system, which is generally accepted as satisfactory, but to develop, simplify, and improve it, in accordance with recommendations made by Royal Commissions, and Parliamentary and Treasury Committees on different occasions during the past half century.

Leaving to the Local Registration of Title Bill the work of providing for the smaller proprietors in Ireland a system of local registration of title, the present Bill deals with the existing general Registry of Deeds, in regard to which its main objects are:—

1. To consolidate the numerous statutes relating to the registration of deeds, judgments, and judgment-mortgages in Ireland, which have been passed from the reign of Queen Anne to the present time.

2. To simplify and cheapen the practice as regards registration by dispensing with certain needless and expensive processes which have been retained from the earlier statutes, and by adopting the ordnance survey as the basis of registration.

3. To afford complete safety to purchasers, by bringing within the range of the registry certain classes of dealings with land, against which no protection is now afforded; by excluding the equitable doctrines of notice as regards registered instruments; and by affording protection to contracts by means of caveats.

4. To consolidate with the registry of deeds the existing registry of judgments; providing for the re-registration in the registry of deeds of the class of judgments which now operate by way of general charge on the land of the judgment debtor, such re-registration to be effected as against specified lands.

5. To afford protection to the public and to solicitors against the consequences of possible technical errors, by providing that the certificate of the registrar shall be conclusive evidence of registration. The cases in which registration has been held invalid are generally cases of extreme hardship, and the error has seldom been of a kind likely to mislead.

[Bill 833.]

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A.D. 1890.

6. To provide for the regulation of office details by general rules. For this purpose it is proposed to place the office under the management of the Master of the Rolls, who fills the position of Keeper of the Public Records of Ireland.

Many clauses of this Bill are borrowed from an Act, the commencement of which was deferred until the issuing of a Treasury Minute (13 & 14 Vict. c. 72). This statute contained many valuable provisions, mainly founded on the second report of the Real Property Commission, 1832; but the system of indexes which it introduced was found to be unworkable, and it was never brought into operation. From it are taken (with certain modifications) the clauses as to the registration of orders affecting land (cl. 11), of private Acts of Parliament (cl. 13), of equitable mortgages and vendors' lien (cl. 15-18), of wills and intestacies (cl. 39-50), the adoption of the ordnance maps as the basis of registration (cl. 55), the provisions as to notice (cl. 8), and covenants (cl. 51-54).

These enactments and most of the other provisions of this Bill (with the exceptions hereinafter mentioned) are in general accordance with the recommendations of a Royal Commission appointed in 1878, to inquire into the registration of deeds and judgments, which had among its legal members the Lord Chief Justice (Mr. May), the Lord Chief Baron, the Vice-Chancellor, the Right Honourable Mountford Longfield, and other lawyers of eminence. The first report of this Commission was presented in 1879, and the second in the following year. The main points on which this Bill departs from the report of the Commission are: (1.) In retaining the system of registration by memorial, which has been in use since the establishment of the office (while simplifying the memorial, and dispensing with certain useless formalities), instead of the system recommended by the Commission, of depositing a copy of the instrument registered, with an abstract for the purpose of registration. The memorial will be so framed as to form the foundation of the indexes and books kept in the office, but the responsibility for its accuracy in such matters as the distinction between grantors and grantees for purposes of registration, will rest with the office, on which is cast the duty of comparison, and (if necessary) of amendment. (2.) In providing for the deposit of certified copies of assurances, at the option of the persons tendering them for registration. Memorials are often so framed as to afford some kind of secondary evidence of the contents of deeds. However unsatisfactory they may be in this point of view it does not appear desirable to interfere with the usefulness of the memorial in this particular without providing a more efficient substitute for those

who desire to use the registry, not merely for the purpose of giving notice of registered assurances, but as preserving evidence of their contents. (3.) In retaining the existing system of judgment mortgages, instead of providing for the immediate realization of judgments by sale of the debtor's land; a proposal which was recommended by the Commission, but which is unsuitable to the existing condition of the country. (4.) In adopting a still further simplification of proof for purposes of registration. (5.) In some matters relating to the registration of wills. The Irish Registry Acts, though providing for the registration of wills, contain no provisions for the protection of purchasers from persons claiming under unregistered wills, differing in this respect from the Yorkshire and Middlesex Acts. The Irish Act of 1850 (13 & 14 Vict. c. 72.) contained provisions for this purpose, which have been in substance adopted in the present Bill. These provisions differ in some particulars from the recommendations contained in the Report of the Royal Commission of 1878, which, however, adopts the general principle of protecting purchasers from claims under unregistered wills. (6.) In adopting from 13 & 14 Vict. c. 72. the system of registration of intestacies, with additional provisions for the protection of persons claiming under wills which may have been mislaid or suppressed. This system, since the Report of 1878, was introduced in the year 1884 into the Act consolidating and amending the law relating to the Yorkshire registry of deeds, and received the sanction of the Legislature as regards Ireland in 1850.

A.D. 1850.
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Registration of Assurances (Ireland) Bill.

ARRANGEMENT OF CLAUSES.

Preliminary.

Clause.

1. Short title.
 2. Act to extend to Ireland only.
 3. Commencement of the Act.
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PART I.

GENERAL PROVISIONS AS TO REGISTRATION.

Assurances.

4. All assurances executed after the 25th of March 1708 may be registered as herein directed.
5. Every such assurance effectual according to priority of time of registering against all other dispositions.
6. Assurances not registered fraudulent and void against assurances registered and against creditors by judgment, &c.
7. Not to extend to leases not exceeding twenty-one years, with actual possession.

Provisions as to Notice, &c.

8. Priority given by Act to be enforced, notwithstanding notice, except in cases of actual fraud.
9. Priority of person claiming for valuable consideration.
10. Void assurance not validated by registration.

Judgments, Decrees, or Orders affecting Land.

11. Judgments, decrees, or orders affecting land and orders for partition or exchange may be registered.
12. Judgments, decrees, or orders affecting land void as against purchasers, unless registered.

[Bill 333.]

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Private Acts of Parliament.

Clause.

13. Registration of private Act of Parliament.

Vesting of Lands under Act of Parliament; Equitable Mortgage; and Vendor's Lien for Purchase Money.

14. When, by any Act, lands are vested upon the payment of money, &c., a memorial may be registered.
15. Equitable mortgage by deposit of deeds may be registered.
16. Lien by reason of non-payment of purchase money may be registered.
17. Registration to be affected under four preceding sections as if an assurance had been made by the person whose right, &c. in the lands shall be affected by the act, lien, &c. registered.
18. Estate or interest created by Act on payment of money, and equitable mortgage by deposit of deeds and lien for purchase money, void as against purchasers unless registered.

Judgment Mortgages.

19. Judgments obtained after 15th July 1850 not to affect lands.
20. Judgments not to affect land purchased after 15th July 1850.
21. Creditors under judgments, &c. entered up or made after 15 July 1850, may file affidavit of ownership of lands, and register it in registry of deeds, and creditors under judgments, entered up or made on or before the said date may file and register a like affidavit in respect of lands purchased after said date.
22. Affidavits to be made by agents, &c. Registration not invalid though affidavit be made by only one counsel.
23. Registration of affidavit to have the effect of a mortgage.
24. Validation of judgment mortgage where error in affidavit not misleading.
25. Voluntary conveyances after judgment entered up void as against the creditor. Act not to affect provisions as to fraudulent conveyances.
26. Act not to affect execution by fieri facias.
27. Rights of judgment creditor in administration of assets preserved.
28. Priority of judgment mortgages for poor rates.

Judgments, Lis pendens, Crown Bonds, Recognizances, &c.

Class.

29. Judgments entered up before 15th July 1850, recognizances, Crown bonds, judgments at the suit of the Crown, and lis pendens invalid as against purchasers, &c., unless registered within five years in the Registry of Judgments, or in the Registry of Deeds.
30. Rules in courts of law, and civil bill decrees for poor rate made before 15th July 1850, statutes, and acceptances of office invalid as against purchasers.
31. Memorandum for registering judgments, &c. not to be received at the Registry of Judgments.
32. Persons requiring to register judgments, &c. to lodge memorial in the Registry of Deeds.
33. No lis pendens recognizance, Crown bond, &c. to affect lands other than those specified in the memorial.
34. Registrar of Deeds to give certificates of registry, &c.
35. Consolidated index of judgments.
36. Cancelling of registration of affidavit of ownership to operate as reconveyance.
37. Lodgment of memorandum of satisfaction of judgments, &c.
38. Registrar of Deeds to enter satisfaction of judgments, &c.

Wills and Affidavits of Intestacy.

39. Registration of wills when testator dies after commencement of Act.
40. Affidavit of intestacy may be registered after six months.
41. Unregistered will void against purchasers under registered will.
42. Unregistered will void against purchasers under a registered intestacy.
43. Registration of will within two years effectual.
44. When will cannot be registered within two years, persons claiming under it may obtain an order from the Court to register intestacy as disputed.
45. Registration of will while intestacy registered as disputed, as effectual as if immediately after death of testator.
46. Affidavits of intestacy may be registered while intestacy registered as disputed.

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Clause.

47. Provisions for cases of disputed intestacy.
48. Removal of note of intestacy as disputed.
49. Cancelling registration of affidavit of intestacy when will proved.
50. Cancelling registration of will probate of which has been revoked.

Registration of Caveats.

51. Power to enter a caveat.
52. Mode of entering caveats.
53. Extent of protection to be afforded by caveats.
54. The protection of caveats restricted to specified cases.

PART II.

HOW REGISTRATION SHALL BE EFFECTED.

Ordnance Maps to be the basis of Registry.

55. Registration to be effected against denominations upon ordnance maps.

Registration to be by Memorial.

56. Registration effected by delivery of memorial.
57. Provisions for registering full copy of assurance or disposition.

Contents of Memorial.

58. Contents of memorial of assurance and will.
59. Contents and verification of memorial of judgment, decree, or order affecting land.
60. Contents of memorial in other instances.
61. Memorial shall specify denominations on ordnance maps.

Provisional Registration in certain Cases.

62. Provisional registration where ordnance denominations cannot be stated.
63. Provisional registration of affidavit of ownership.
64. Provisional registration to become absolute on production of perfect memorial.

Clause.

63. Affidavit for purpose of provisional registration.
66. Assurance or disposition provisionally registered may be also registered in the ordinary manner.

Registration only effectual against Lands mentioned in Memorial.

67. Registration only against lands specified in memorial.

Proof of Execution of Instrument Registered.

68. Assurance duly attested may be registered within a year without proof of execution.
69. Will duly attested may be registered within two years.
70. Mode of proving the execution of assurances proposed to be registered when not so attested or executed more than a year previously.
71. Mode of proving the execution of wills when not so attested or executed more than two years previously.

Assurances or Wills more than Thirty Years Old.

72. Assurances or wills more than thirty years old may be registered under an order of the Court.

Registration of Lost Assurances or Wills.

73. Memorial of lost assurances or wills may be registered under an order of the Court.

Certificate as to Memorial.

74. Certificate as to correctness of memorial.

Production of Assurance to Registrar.

75. Except in certain cases the assurance or will to be registered shall be produced to the registrar.

Certificate of Registration.

76. Registrar to enter registration, and give certificate to person registering.
77. Certificate to be conclusive evidence of registration.

Proceedings when the Registrar shall refuse to accept Memorial.

Clause.

78. Registrar shall refuse to accept informal memorial. Conditional registration.
 79. Where registrar refuses to accept memorial, the party tendering it may apply to Court.
 80. Registrar to receive memorial when so ordered by Court.

Power to compel Registration in certain cases.

81. Any person claiming under an assurance may compel the registration thereof by application to Court.

PART III.

SEARCHES.

82. All persons may search the books and indexes kept in the office.

Common Search.

83. Any person may, upon requisition, obtain a head clerk's or common search and certificate.

Negative Search.

84. A search and negative certificate may be obtained.
 85. Requisition may be limited either as to names or period.
 86. Requisition for negative search to be filed and certificate to be given.
 87. Certificate to contain abstracts of memorials registered before the Act, and copies of memorials registered under the Act.
 88. Vendor to furnish only a negative search, with an abstract of every memorial and copy of every memorial not excepted.

Searches for Judgments.

89. Requisitions or searches for judgments, &c. in the registry office.

*Duplicates.**Class.*

- 90. Requisitions for duplicate searches in registry office.
- 91. Duplicate to have the effect of original.

Requisitions.

- 92. Requisition by solicitors.
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PART IV.

CONSTITUTION OF THE OFFICE.—STAMPS AND FEES.

- 93. Existing registry office to be carried on under the Act.
- 94. Days and hours of business in the office.
- 95. Official staff.
- 96. Registrar not to sit in Parliament.
- 97. Officers to act in person, and not by deputy.
- 98. Office to be under the management of the registrar.

Stamps and Fees.

- 99. Fees payable in the office.
 - 100. No document to be received or used unless stamped.
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PART V.

GENERAL RULES, AND MISCELLANEOUS PROVISIONS.

- 101. General rules to be framed after passing of Act.
- 102. Forms and directions to be settled.
- 103. Rules for the keeping of the index.
- 104. On introduction of printing in office, rules may be altered.

Extension of Time.

- 105. Extension of time may be granted for good cause.

Affidavits.

Class.

106. Persons before whom affidavits for purposes of Act may be sworn.
107. Treasury may defray expenses of completing indexes, &c.
108. Office copies of memorials to be received in evidence.
109. Punishment for forging signature required by this Act, &c.

Registrar of Judgments.

110. Officers in Registry of Judgments.

Repeals and Savings.

111. Repeal of former Acts.
112. Priority of assurances registered under repealed Acts.
113. Act not to necessitate registration of assurances, &c. executed before its commencement which did not then require registration.
114. Effect of registration under the Act of assurance directed to be registered under any Act of Parliament.
115. Interpretation clause.

SCHEDULE.

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B I L L

TO

Consolidate and amend the Laws relating to the Registration of Deeds and Judgments, and to provide for the Registration of other assurances, acts, and matters affecting Land in Ireland.

A.D. 1890.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

5 *Preliminary.*

1. This Act may be cited as the Registration of Assurances (Ireland) Act, 1890.

Short title.

2. This Act shall extend to Ireland only.

Act to extend to Ireland only.

10 3. This Act shall, except as in this Act specially provided, come into operation on the first day of January one thousand eight hundred and ninety-one.

Commencement of the Act.

PART I.

GENERAL PROVISIONS AS TO REGISTRATION.

Assurances.

15 4. All assurances made and executed after the *twenty-fifth day of March one thousand seven hundred and eight* for or concerning, and whereby any land in Ireland may be any way affected, may, at the election of the party or parties concerned, be registered in such manner as is herein-after directed.

All assurances executed after the 25th of March 1770 may be registered as herein directed. [5 Anne, c. 2. s. 5.]

20 5. Every such assurance which shall be duly registered according to the rules and directions in this Act contained or referred to shall be deemed and taken as good and effectual, both in law and equity, according to the priority of time of registering such assurance for and concerning the lands in the memorial for the registration of such assurance mentioned or contained, according to the right, title, and interest of the person or persons so conveying

[Bill 333.]

Every such assurance effectual according to priority of time of registering against all other dispositions. [5 Anne, c. 2. s. 4.]

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or assuring such lands, against all and every other assurance or disposition of the same lands, or any part thereof.

Assurances not registered fraudulent and void against registered and against creditors by judgment, &c. [4 Arms, c. 2. s. 5.]

6. Every assurance not registered made and executed after the *twenty-fifth day of March one thousand seven hundred and eight*, of all or any of the lands mentioned in the memorial of such 5 assurance which shall be registered in pursuance of this Act, shall be deemed and adjudged as fraudulent and void, not only against such an assurance registered as aforesaid, but likewise against all and every creditor and creditors by judgment, recognizance, statute merchant or of the staple confessed, acknowledged, or 10 entered into after the twenty-fifth day of March aforesaid, as for and concerning all or any of the lands mentioned in the memorial of such assurance registered as aforesaid.

Not to extend to leases not exceeding twenty-one years, with capital possession. [4 Arms, c. 2. s. 14.]

7. This Act shall not extend to any lease for years not exceeding *twenty-one years*, or to any assurance or disposition 15 affecting the interest demised by such lease, or any portion of the same, where the actual possession shall go along with the said lease, or with the assurance or disposition affecting such leasehold interest as aforesaid.

Provisions as to Notice, &c.

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Priority given by Act to be ordered, notwithstanding notice, except in cases of actual fraud. [13 & 14 Vict. c. 79, s. 29.]

8. All priorities given by this Act shall have full effect in all courts, except in cases of actual fraud, and no person shall lose any priority under this Act merely in consequence of his having been 25 affected with actual or constructive notice; but, notwithstanding anything herein contained, it shall be lawful for a court of competent jurisdiction to deprive any person of the priority to which he would otherwise have been entitled under this Act, on the ground of actual fraud.

Priority of person claiming for valuable consideration.

9. Nothing in this Act contained shall operate to confer on any person claiming without valuable consideration under any 30 person any further priority or protection than would belong to the person under whom he claims.

Void assurance not validated by registration.

10. The registration of any assurance or disposition which if unregistered would have been fraudulent and void, shall not operate to prevent such assurance or disposition from being fraudulent and 35 void in like manner as if the same had not been registered.

Judgments, Decrees, or Orders affecting Land.

Judgments, decrees, or orders affecting land and

11. Every judgment, decree, or order made after the commencement of this Act by which any estate or interest in any lands

shall be created, declared, transferred, foreclosed, or determined, or for the exchange, partition, division, or allotment of lands, and also every judgment, decree, or order of any court of competent jurisdiction by which any such judgment, decree, or order as aforesaid shall be varied or reversed (all of which judgments, decrees, and orders are in this Act referred to as "orders affecting land"), shall be capable of registration under this Act in the manner herein-after provided.

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orders for partition or exchanges may be registered. [13 & 14 Vict. c. 72. s. 7.]

12. Every order affecting land by this Act authorised to be registered shall, as regards any lands to be affected thereby, against which any subsequent assurance or disposition shall have been duly registered, be void as against any person claiming for valuable consideration under such subsequent assurance or disposition, unless such order shall have been registered against such lands in the manner directed by this Act before the registration of the subsequent assurance or disposition.

Judgments, decrees, or orders affecting land with is against purchasers, unless registered. [13 & 14 Vict. c. 72. s. 24.]

Private Acts of Parliament.

13. Every private Act of Parliament which shall be passed after the commencement of this Act, by which any lands are affected, shall be capable of registration in the manner herein-after provided; and shall, as regards any lands to be affected thereby against which any subsequent assurance or disposition shall have been duly registered, be void as against any person claiming for valuable consideration under such subsequent assurance or disposition, unless such private Act of Parliament shall have been registered against such lands in the manner directed by this Act before the registration of the subsequent assurance or disposition.

Registration of private Acts of Parliament. [13 & 14 Vict. c. 72. s. 8.]

Vesting of Lands under Act of Parliament; Equitable Mortgage; and Vendor's Lien for Purchase Money.

14. In every case where the provisions of any Act of Parliament passed or to be passed have the effect of vesting lands in any person by or upon the payment of money, or by or upon any other act (other than any assurance or disposition herein-before authorised to be registered), and such lands become so vested by or upon any such payment or other act made or done after the commencement of this Act, any person claiming under or by virtue of the vesting of such lands as aforesaid may register a memorial in the prescribed form, containing a reference to the Act of Parliament and the names of the denominations upon the ordinance

When, by any Act, lands are vested upon the payment of money, &c., a memorial may be registered. [13 & 14 Vict. c. 72. s. 10.]

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maps in which the lands are included, and expressing the payment or other act by or upon which such lands shall have so vested as aforesaid: Provided always, that nothing in this section contained shall be deemed to apply or have reference to the vesting of the estate of a bankrupt in the assignees or trustee of such 5 bankrupt.

Equitable mortgage by deposit of deeds may be registered. [13 & 14 Vict. c. 72. s. 11.]

15. Any person claiming any interest under any equitable mortgage affecting any lands made by deposit of title deeds, without an assurance, after the commencement of this Act, may register a memorial in the prescribed form, expressing the 10 principal sum of money secured by such equitable mortgage; or in case the total amount of the principal money secured, or to be ultimately recoverable upon such equitable mortgage, shall be limited not to exceed a given sum, the total amount of such money; or in case the money secured by such equitable mortgage 15 shall be without any limit, that the money secured by such equitable mortgage is unlimited.

Lien by reason of non-payment of purchase money may be registered. [13 & 14 Vict. c. 72. s. 12.]

16. Where by reason of the non-payment of purchase money a vendor shall, after the commencement of this Act, have acquired a lien for such purchase money on any lands, any person claiming 20 an interest in such lien may register a memorial in the prescribed form, containing such particulars of the conveyance by the vendor as are sufficient to identify the same, and also stating the amount of the money for which a lien is claimed.

Registration to be effected under four preceding sections as if an assurance had been made by the person whose right, &c. in the lands shall be affected by the act, lien, &c. registered. [13 & 14 Vict. c. 72. s. 13.]

17. In the several cases provided for by the four immediately 25 preceding sections, the same entry or entries shall be made for the purposes of registration thereunder as if an assurance had been made by the person whose right or interest in the lands shall be affected by the private Act of Parliament, the vesting of the lands, the equitable mortgage, or the lien (as the case may be), and 30 as if the lands affected by the private Act of Parliament, the vesting of the lands, the equitable mortgage, or the lien (as the case may be) had been so affected by such an assurance.

Estate or interest created by Act on payment of money, and equitable mortgage by deposit of deeds and lien for purchase money, void.

18. When any Act of Parliament passed or to be passed contains any provisions for vesting any lands in any person by 35 or upon the payment of money, or by or upon any other act (except any act under any bankruptcy, or an assurance or disposition herein-before authorised to be registered), and such lands become so vested by or upon any such payment or other act (except as aforesaid) made or done after the commencement 40 of this Act, and where any equitable mortgage affecting lands

shall be made by the deposit of title deeds after the commencement of this Act, and where by reason of the non-payment of purchase money a vendor shall at any time after the commencement of this Act have acquired a lien for such purchase money on any lands, such vesting of such lands, equitable mortgage, and lien respectively shall be void as against any person claiming for valuable consideration under any subsequent assurance or disposition duly registered against the same lands, unless, in the respective case of such vesting of such lands, equitable mortgage, and lien, such memorial as is herein-before in such respective case authorised to be registered shall have been registered in the manner required by this Act before the registration of the subsequent assurance or disposition.

A.D. 1896.

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as against
purchasers
unless
registered.
[13 & 14 Vict.
c. 72. s. 26.]

Judgment Mortgages.

19. No writ of elegit or writ of execution (save as herein-after mentioned) shall issue or be sued against any lands upon any judgment of any superior court, decree, or order in any court of equity, order in bankruptcy or lunacy, or judgment, rule, or order of any inferior court entered up, obtained, or made after the fifteenth day of July one thousand eight hundred and fifty, nor shall any lands be charged or affected by any such judgment, decree, order, or rule, save as provided by this Act.

Judgments
obtained
after
15th July
1850 not to
affect lands.
[13 & 14 Vict.
c. 29. s. 1.]

20. Where any legal or equitable estate or interest or any disposing power in or over any lands has, under any conveyance, lease, deed, or instrument executed after the fifteenth day of July one thousand eight hundred and fifty become vested in any person as a purchaser for valuable consideration, such lands shall not be taken in execution under any writ of elegit or writ of execution (save as herein-after mentioned) to be sued upon any judgment which before the fifteenth day of July one thousand eight hundred and fifty has been entered up in any of Her Majesty's superior courts at Dublin, or obtained in any inferior court of record, against such person, or any decree, order, or rule which has been made before the said day for payment by such person of any sum of money, costs, charges, or expenses, and no receiver shall be appointed over such lands in respect of any money due upon such judgment, decree, order, or rule, nor shall such judgment, decree, order, or rule operate as a charge upon or in anywise charge or affect such lands, save as provided by this Act: Provided always, that this enactment shall not take away or affect any rights or remedies which might have been had against or in relation to such lands, if the Act of

Judgments
not to affect
land purch-
ased after
15th July
1850.
[13 & 14 Vict.
c. 29. s. 2.]

A.D. 1890.

the session of the thirteenth and fourteenth years of the reign of her present Majesty, chapter twenty-nine, had not been passed, in respect of any estate, interest, right, title, or power in, to, or over the same, which may have been in such person before the said day.

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Creditors under judgments, &c. entered up or made after 15 July 1850, may file affidavit of ownership of lands, and register it in registry of deeds, and creditors under judgments, entered up or made on or before the said date may file affidavit in respect of lands purchased after said date. [13 & 14 Vict. c. 29, s. 6.]

21. Where any judgment shall have been entered up after the fifteenth day of July, one thousand eight hundred and fifty, in any of Her Majesty's superior courts at Dublin or in the High Court, or any decree or order in any court of equity, rule in any court of common law, or order in bankruptcy or lunacy, to which the effect of a judgment in one of the superior courts of common law is given by an Act passed in the session of Parliament held in the third and fourth years of the reign of Her present Majesty, chapter one hundred and five, shall have been made after the said day, or any judgment, rule, or order shall have been obtained or made in or by any inferior court of record after the said day, and shall under the provisions of the said Act of the session of the third and fourth years of Her Majesty, have been removed into one of Her Majesty's superior courts of record at Dublin or the High Court, and the creditor under any such judgment, decree, order, or rule shall know or believe that the person against whom such judgment, decree, order, or rule is entered up, obtained, or made, is seised or possessed at law or in equity of any lands, or has any disposing power over any lands which he may without the assent of any other person exercise for his own benefit, and where any judgment has been entered up before the said day in any of Her Majesty's superior courts at Dublin, or any decree or order in any court of equity, rule in any court of common law, or order in bankruptcy or lunacy to which the effect of a judgment in one of the superior courts of common law is given by the said Act of the session of the third and fourth years of the reign of Her Majesty has been made before the said day, or any judgment, order, or rule has been obtained or made in or by any inferior court of record before the said day, and has been or shall be, under the provisions of the said Act of the session of the third and fourth years of Her Majesty, removed into one of Her Majesty's superior courts at Dublin or the High Court, and the creditor under any such judgment, decree, order, or rule, shall know or believe that the person against whom such judgment, decree, order, or rule is entered up, obtained, or made, is seised or possessed as aforesaid of, or has such disposing power as aforesaid over any lands which, by virtue of this Act, are exempted from being taken in execution under any writ of execu-

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3 & 4 Vict. c. 105.

A.D. 1890.

tion to be issued upon such judgment, decree, order, or rule, it shall be lawful for such creditor, at any time and from time to time after the entering up or removal of such judgment in or into such superior court or the High Court, or the making of such
5 decree, order, or rule, or the passing of this Act, whichever shall last happen, to make and file in the High Court an affidavit (in this Act called an "affidavit of owoorship"), stating the name or title of the cause, action, or matter, and the court or division in which such judgment, decree, order, or rule has been entered up, obtained, or made,
10 and the date of such judgment, decree, order, or rule, and the names, and the usual or last known place of abode, and the title, trade, or profession of the plaintiff (if there be such), and of the defendant or person whose estate is intended to be affected by the registration, as herein-after mentioned, of such affidavit, and the amount of the
15 debt, damages, costs, or moneys recovered or ordered to be paid by such judgment, decree, order, or rule, and stating that, to the best of the knowledge and belief of the deponent, the person against whom such judgment, decree, order, or rule is entered up, obtained, or made is at the time of the swearing of such
20 affidavit so seised or possessed, or has such disposing power as aforesaid, of or over such lands, and such affidavit shall specify the county and barony, or the city and parish, in which the lands to which the affidavit relates are situate, and where such lands lie in two or more counties or baronies, or parishes or streets,
25 or partly in one barony, parish, or street and partly in another, the same shall be distinctly stated in such affidavit; and it shall be lawful for the creditor making such affidavit to register the same in the registry of deeds, by depositing an office copy of such affidavit; and such affidavit shall be entered in the
30 books and indexes kept in the registry, in like manner as if the same were a memorial of an assurance; and for the purpose of such entries the creditor under such judgment, decree, order, or rule shall be deemed the grantee, and the debtor thereunder shall be deemed the grantor; and the amount of the
35 debt, damages, costs, or moneys recovered or ordered to be paid thereby shall be deemed the consideration; and the like fee shall be paid on such registration as in the case of registering an assurance.

22. In the construction of this Act the word "creditor" shall
40 mean and include any number of persons jointly interested as creditors in relation to such judgment, decree, order, or rule, and shall also mean and include all joint stock banking and other companies and corporate bodies; and every affidavit or oath

Affidavits to
be made by
agents, &c.
Registration
not invalid

A.D. 1890.
though affi-
davit be
made by only
one counsel.
[21 & 22 Vict.
c. 105. s. 3.]

necessary to be made by any creditor may be made by any one or more of such persons so jointly interested, the public officer authorised to sue or be sued or to make oaths on behalf of such joint stock company, or by the secretary, deputy secretary, managing director, manager, or law agent of any corporate body; and in any affidavit made or to be made by any such public officer, secretary, deputy secretary, managing director, manager, or law agent, a description of the town or place where the business or principal office of such joint stock company or corporate body is carried on or situated shall be deemed to be a sufficient description of the usual place of abode of the deponent, within the meaning of this Act; and where any creditor by judgment, decree, order, or rule is authorised to file an affidavit as aforesaid, and where, from the absence of such creditor or other reasonable cause, such affidavit cannot be made by such creditor, it may be made by such person as the court shall direct, and no registration of any judgment shall be deemed invalid by reason of the affidavit being or having been made by one only of several counsels.

Registration
of affidavit
to have the
effect of a
mortgage.
[18 & 19 Vict.
c. 29. s. 7.]

23. The registration as aforesaid of such affidavit shall, subject to the provisions of this Act, operate to transfer to and vest in the creditor registering such affidavit all the lands mentioned therein, for all the estate and interest of which the debtor mentioned in such affidavit shall at the time of such registration be seised or possessed at law or in equity, or might at such time create by virtue of any disposing power which he might then without the assent of any other person exercise for his own benefit, but subject to redemption on payment of the money owing on the judgment, decree, order, or rule mentioned in such affidavit; and such creditor, and all persons claiming through or under him, shall, in respect of such lands, or such estate or interest therein as aforesaid, have all such rights, powers, and remedies whatsoever as if an effectual conveyance, assignment, appointment, or other assurance to such creditor of all such estate or interest, but subject to redemption as aforesaid, had been made, executed, and registered at the time of registering such affidavit; and such registration shall not operate as a waiver of any existing right or equity which the creditor may have against such lands at the date of the registration.

Provided always, that it shall be lawful for a creditor registering such affidavit to state therein that such affidavit is intended to be registered as against some estate or interest in the affidavit particularly specified, less than the entire estate or interest of the debtor in the lands in the affidavit mentioned, and where such

statement is made, the registration of such affidavit shall operate to transfer to and not in the creditor the lands therein mentioned for such lesser estate or interest.

A.D. 1890.

Validation of judgment mortgages where error in affidavit is not misleading.

24. If there shall be any error or misdescription in an affidavit of ownership registered after the commencement of this Act, the Court, on the application in the prescribed manner of the creditor or any person claiming from or under him, may, in its discretion, upon being satisfied that such error or misdescription was not and is not calculated to mislead as regards any matter by this Act required to be stated therein, make an order that the registration of such affidavit shall have the same effect and operation as if there had not been such error or misdescription: and the registrar, upon production to him of such order, shall cause a memorandum in the prescribed form to be subscribed to the several entries of such affidavit in the books kept in the registry office, and thereupon the registration of such affidavit shall have the same effect and operation in all respects as from the date of the original registration as if there had not been such error or misdescription.

25. Where an affidavit shall be registered as aforesaid, every such conveyance and other Act whatsoever made or done after the date of the judgment, decree, order, or rule mentioned in such affidavit, of and concerning any lands mentioned in such affidavit, as under an Act of the Parliament of Ireland passed in the tenth year of King Charles the First, intituled an Act against covenants and fraudulent Conveyances, would be deemed void against purchasers for money or other good consideration, shall be void as against the creditor registering such affidavit, and the like remedies may be had in respect of such lands as if such conveyance or other act had not been made or done: Provided always, that nothing herein contained shall in anywise affect the provisions of the same Act concerning conveyances and other acts had or made to the intent to delay, hinder, or defraud creditors.

Voluntary conveyances after judgment entered up void as against the creditor. 16 Car. I. sess. 2. c. 3 (16.). Act not to affect provisions as to fraudulent conveyances. [13 & 14 Vict. c. 29. s. 8.]

26. All such chattel interests in lands, as might have been taken in execution under any writ of fieri facias if the said Act of the session of the third and fourth years of the reign of Her Majesty, chapter one hundred and five, had not been passed, may be taken in execution and otherwise dealt with under any writ of fieri facias already issued or hereafter to be issued, anything in this Act contained notwithstanding.

Act not to affect execution by fieri facias. [13 & 14 Vict. c. 29. s. 10.]

27. In the administration in any court of the assets of any person against whom any judgment, decree, order, or rule has been or

Rights of judgment creditor in

A.D. 1890
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administra-
tion of assets
preserved
[15 & 14 Vict.
c. 29 s. 11.]

shall be entered up, obtained, or made, either before or after the commencement of this Act, who shall die seised of or entitled to any lands, the creditor under such judgment, decree, order, or rule shall have the same rights upon and in respect of such lands, as if this Act had not been passed.

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Priority of
judgment
mortgages
for poor
rates.
[12 & 13 Vict.
c. 104 s. 18.]

28. Every civil bill decree for poor rates filed in the High Court under the provisions of the seventeenth section of the Act of the session of the twelfth and thirteenth years of the reign of Her present Majesty, chapter one hundred and four, may be registered as a judgment mortgage by an affidavit in the prescribed form against any lands situated within the union where such poor rates have accrued due, of which at the time of swearing such affidavit the person against whom such civil bill decree has been obtained, is seized or possessed at law or in equity, or over which at the said time he has any disposing power which he may without the assent of any other person exercise for his own benefit. Every such civil bill decree registered as a judgment mortgage, and every judgment for poor rates registered as a judgment mortgage, shall take priority as a charge on all the estate and interest in any lands of the creditor mentioned in the affidavit of ownership, situated in the poor law union wherein the poor rates for which such civil bill decree or judgment was obtained accrued due, before all charges and incumbrances whatsoever, except crown rent, quit rent, tithe rentcharge, charges existing under the Act of the session of the fifth and sixth years of the reign of Her present Majesty, chapter eighty-nine, and the Acts amending the same, and charges existing under the Act of the session of the tenth and eleventh years of the reign of Her present Majesty, chapter thirty-two, and the Acts amending the same.

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5 & 6 Vict.
c. 80.

10 & 11 Vict.
c. 32.

Judgments, Lis pendens, Crown Bonds, Recognisances, &c.

Judgments
entered up
before 15th
July 1830, re-
cognisances,
Crown bonds,
judgments at
the suit of the
Crown, and
lis pendens
invalid as
against pur-
chasers, &c.,
unless regis-
tered withiu

29. After the commencement of this Act no judgment of any superior court, decree or order in any court of equity, order in bankruptcy or lunacy, or judgment, order, or rule of any inferior court (all of which are hereafter referred to as "judgments"), entered up or obtained on or before the fifteenth day of July one thousand eight hundred and fifty, nor any revival of any such judgment, nor any recognizance, Crown bond, inquisition, or judgment at the suit of the Crown, nor any lis pendens, shall affect any lands as to purchasers, mortgagees, or creditors, unless the same shall have been duly registered or re-registered in the Registry of Deeds or in the

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Registry of Judgments within *five years* before the execution of the conveyance, settlement, mortgage, lease, or other deed or instrument vesting or transferring the legal or equitable right to the estate or interest in or to any such purchaser, or mortgagee for 5 valuable consideration, or as to creditors within *five years* before the right of such creditor accrued.

A.D. 1890.
Five years in the Registry of Judgments, or in the Registry of Deeds.

30. After the commencement of this Act no rule in any Court of Common Law made before the fifteenth day of July one thousand eight hundred and fifty, nor any civil bill decree 10 for poor rate made before that day, nor any statute which has been, or which hereafter shall be entered into, in the name or upon the proper account of Her Majesty, Her heirs or successors, nor any acceptance of office, shall affect any lands as to purchasers, mortgages, or creditors.

Rules in Court of Law, and civil bill decrees for poor rate made before 15 July 1850, statutes, and acceptance of office invalid as against purchasers.

15 31. After the commencement of this Act no memorandum for the registry or re-registry of any judgment, revival, decree, rule, order, of any court or judge, civil bill decree for poor rates, *lis pendens*, recognizance, Crown bond, judgment at the suit of the Crown, statute, inquisition, or acceptance of office nor any 20 memorandum of satisfaction, vacate, or cancellation of any judgment, revival, recognizance, Crown bond, or *lis pendens*, shall be received at the Registry of Judgments, and the Registry of Judgments shall be abolished.

Memorandum for registering judgments, &c. not to be received at the Registry of Judgments.

32. Any person who may require to register or re-register any 25 judgment or revival of a judgment entered up or obtained on or before the fifteenth day of July one thousand eight hundred and fifty: or any judgment at the suit of the Crown, recognizance, Crown bond, inquisition, or *lis pendens* may lodge in the Registry of Deeds a memorial containing the prescribed description and particulars, 30 and the Registrar shall enter the particulars or deal with the memorial in the prescribed manner. Every such memorial shall have subscribed or attached thereto a certificate of the judgment, revival, recognizance, Crown bond, inquisition, or *lis pendens* described therein signed by the proper officer, or a certified copy 35 of such judgment, revival, recognizance, Crown bond, or inquisition, or of the material portions thereof signed by the proper officer.

Persons requiring to register judgments, &c. to lodge memorial in the Registry of Deeds.

33. When any judgment, revival of a judgment, *lis pendens*, recognizance, Crown bond, judgment at the suit of the Crown, or inquisition shall be registered under the provisions of this Act, 40 such registration shall be effected in the prescribed manner, and no such judgment, *lis pendens*, recognizance, Crown bond, judgment at the suit of the Crown, or inquisition shall affect any

No *lis pendens*, recognizance, Crown bond, &c. to affect lands other than those specified in the memorial.

A.D. 1890,¹ lands as to purchasers for valuable consideration, mortgagees, or creditors, other than the lands specified in the memorial for the registration of the same under the provisions of this Act.

Registrar of
Deeds to
give certi-
ficates of
registry, &c.

34. The Registrar of Deeds shall, whenever thereunto requested, after the lodgment in his office of any memorial for the registry 5 or re-registry of any judgment, revival, recognizance, Crown bond, or lis pendens, or of any memorandum for the registry of satisfaction, vacate, or cancellation, give a certificate in the prescribed form of such registry or re-registry, or of any registry or re-registry of any judgment, revival, recognizance, Crown bond, lis pendens, 10 satisfaction, vacate, or cancellation contained in any book which shall, under the provisions of this Act, be transferred from the Registry of Judgments to the Registry Office, with a reference to the volume and page whereby the entry thereof may be readily found. Such certificate shall be conclusive evidence of such 15 registry or re-registry.

Consolidated
index of
judgments.

35. After the commencement of this Act there shall be kept in the prescribed office of the High Court a consolidated index in the prescribed form of all judgments entered up in the High Court or revived after such date, and such index shall be kept in 20 the alphabetical order of the names of the persons against whom the judgments are entered up or revived, and the entry of a judgment in such index shall satisfy the requirements of the three hundred and thirty-sixth section of the Irish Bankrupt and Insolvent Act, 1857. 25

30 & 31 Vict.
c. 60.

The fees to be charged for indexing and searching in the index of judgments, and inspecting the judgments indexed, shall be deemed to be included in the fees mentioned in the eighty-fourth section of the Supreme Court of Judicature Act (Ireland), 1877; and the provisions of that Act relating to fees shall apply to 30 such fees.

40 & 41 Vict.
c. 57.

Cancelling of
registration of
affidavit of
ownership to
operate as
reconveyance.
[13 & 14 Vict.
c. 59, s. 8.
11 & 12 Vict.
c. 105, s. 5.]

36. When an affidavit of ownership in respect of any judgment, decree, rule, or order, has been or shall be registered, upon the lodgment with the registrar of such certificate of the entry of satisfaction upon the roll of the judgment, or of such certificate 35 of the decree, rule, or order having been performed, complied with, or satisfied, as is mentioned in the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter one hundred and twenty, the registrar shall cause a memorandum of satisfaction thereof, in the prescribed form, to be subscribed 40 to the several entries of such affidavit in the books kept in the

11 & 12 Vict.
c. 120.

registry office, and shall also cancel the registration of such affidavit, and such registration shall thenceforth be deemed and taken as null and void, as if no such registration had been affected: and the legal or other estate in the lands affected by
5 such registration shall, without any farther deed, conveyance, or assurance, be and thereby become vested in the person in whom such legal or other estate would have been vested at the time of such cancelling if no such registration had been theretofore effected.

A.D. 1890.

- 37.** Any person who may require to register in the Registry of
10 Deeds a satisfaction, vacate, or cancellation of any judgment, revival, recognizance, Crown bond, judgment at the suit of the Crown, or inquisition, or *lis pendens*, which shall have been registered in the Registry of Judgments and entered in any book which shall be transferred to the Registry of Deeds, or which shall be
15 registered under the provisions of this Act, may lodge in the Registry of Deeds a memorandum containing a sufficient description of such judgment, revival, recognizance, Crown bond, judgment at the suit of the Crown, inquisition, or *lis pendens*, and having subscribed or annexed thereto (as the case may be) a
20 certificate of the entry of satisfaction upon the roll of such judgment or revival; or of the vacate or cancellation of such recognizance, Crown bond; or an office copy of any *quietus* or certificate, or order in the nature of a *quietus* obtained by any debtor or accountant to the Crown, and of the certificate or
25 consent of the Attorney-General for Ireland; or a certificate of the vacate of such *lis pendens*, such certificates to be signed by the proper officer in that behalf (and which certificates respectively such officer is hereby authorised and required to give), or a certified copy duly authenticated of such judgment, revival, or recogni-
30 zance, or of the material portions thereof respectively, and of the entry of satisfaction, vacate, or cancellation thereon.

Lodgment of memorandum of satisfaction of judgments, &c.

- 38.** The Registrar of Deeds shall, upon the lodgment in his office of any such memorandum for the registry of a satisfaction of any judgment or revival, or of the vacate or cancellation of any recogni-
35 zance, Crown bond, judgment at the suit of the Crown, or inquisition, or *lis pendens*, cause a note of such satisfaction, vacate, or cancellation to be marked or written on the entry of the registry of such judgment, revival, recognizance, Crown bond, or *lis pendens*, specifying the date at which such satisfaction, cancelling, or vacate
40 appears by the certificate subscribed to such memorandum to have been entered on record, or as to any *lis pendens* the date of the order by which such *lis pendens* was vacated.

Registrar of Deeds to enter satisfaction of judgments, &c.

A.D. 1890.

Wills and Affidavits of Intestacy.

Registration of will when testator dies after commencement of Act.

[6 ASSN. c. 3. s. 5.]

Affidavit of intestacy may be registered after six months.

[13 & 14 VICT. c. 19. s. 15.]

39. Any will affecting land, when the testator shall die after the commencement of this Act, may be registered in the registry office by any devisee thereunder, in the manner herein-after provided.

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40. Any person who shall claim any estate or interest in land in Ireland as heir or otherwise, which might have been defeated or affected by the will of any person who shall die after the commencement of this Act, and who shall believe such person to have died intestate, or intestate as to such land, may at any time after (but not before) the expiration of six months from the death of such person make an affidavit in the prescribed form, and such affidavit (in this Act referred to as an "affidavit of intestacy") may be registered in the registry office in the prescribed manner.

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Every such affidavit shall state—

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1. The date of the death of the deceased.
2. The name and addition of the deceased.
3. The name and addition of the deponent.
4. The denominations upon the ordnance maps of the lands intended to be affected by the registration.
5. The nature of the estate or interest claimed by the deponent.
6. The fact that the deponent believes that the deceased died intestate, or intestate as to such lands.

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Unregistered will void against purchasers under registered will.

[13 & 14 VICT. c. 19. s. 27.]

41. When any will authorised to be registered under this Act shall have been duly registered thereunder, every other will executed by the same testator shall, so far as regards the lands against which such first-mentioned will shall have been registered, be void, as against any person claiming for valuable consideration under any duly registered assurance or disposition, executed or made by any devisee under such first-mentioned will, unless such other will shall have been registered before the registration of such assurance or disposition.

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Unregistered will void against purchasers under a registered intestacy.

[13 & 14 VICT. c. 19. s. 27.]

42. When an affidavit of intestacy shall have been duly registered under this Act, any will executed by the person in respect of whose intestacy such affidavit shall have been registered shall, so far as regards the lands against which such affidavit of intestacy shall have been registered, be void, as against any person claiming for valuable consideration under any duly registered assurance or disposition, executed or made by any person claiming immediately or derivatively under such intestacy, unless such will

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shall have been registered before the registration of such assurance or disposition.

A.D. 1850.

43. Every will registered within *two years* after the death of the testator shall be as valid and effectual as if the same had been registered immediately after his death.

Registration of will within two years effectual. [13 & 14 Vict. c. 179. s. 27.]

44. When any person claiming to be interested under the alleged will of a person dying after the commencement of this Act shall be unable to register such will within the period of two years from the death of such person by reason of the concealment, suppression, or contesting of such will, or any other cause, it shall be lawful for such person to apply to the High Court within the said period, in the prescribed manner, for liberty to register as disputed the intestacy of the person under whose alleged will he claims; and the High Court, if satisfied that there is reasonable ground for disputing such intestacy, may direct that a memorial of such disputed intestacy shall be received and registered, and shall by such order limit the time during which such intestacy shall continue registered as disputed, and the registrar, upon production to him of such order, and of a memorial in the prescribed form, stating the name and addition of the person so dying, the date of his death, and the denominations upon the ordnance map of the lands alleged to have been comprised in or affected by his will, shall register the intestacy of such person as disputed; and upon the determination of the time limited by such order as aforesaid the registration of such intestacy as disputed shall be cancelled and avoided: Provided always, that it shall be lawful for the High Court, if it shall think fit, by any order or orders to extend the time during which such intestacy shall continue registered as disputed.

When will cannot be registered within two years, persons claiming under it may obtain an order from the Court to register the intestacy as disputed.

45. If the will of the person whose intestacy shall have been registered as disputed under this Act shall be duly registered while such intestacy shall continue registered as disputed, the registration of such will shall be as valid and effectual as if the same had been registered immediately after the death of the testator.

Registration of will while intestacy registered as disputed, as effectual as if immediately after death of testator.

46. Nothing herein contained shall prevent the registration of an affidavit of intestacy under the provisions of this Act while such intestacy shall continue registered as disputed, but in such case the registration of every such affidavit of intestacy shall be noted as disputed in all the books, indexes, and certificates used and given in the registry office; and if the will of the person whose intestacy has been registered as disputed shall be registered within

Affidavit of intestacy may be registered while intestacy registered as disputed.

A.D. 1890.

the aforesaid period of two years, then the registration of such affidavit of intestacy shall be cancelled, and shall have thenceforth no operation or effect whatever; otherwise such registration shall be effectual as from the date at which it shall have been effected.

Provisions for
cases of dis-
puted intestacy.

47. When an affidavit of intestacy shall have been duly registered under this Act, and any proceedings shall be taken at any time after the registration of such affidavit in a court of competent jurisdiction, for the purpose of obtaining probate of the will of the person in respect of whose intestacy such affidavit shall have been registered, or for the purpose of obtaining letters of administration with such will annexed, it shall be lawful for any person claiming under such will to require the registrar to note the fact that such intestacy is disputed, and the registrar, upon proof in the prescribed manner of the institution of such proceedings, shall note such intestacy as disputed in all the books and indexes used and certificates given in the registry office, and thenceforth, and so long as such intestacy shall be noted as disputed, the registration of the affidavit of such intestacy shall have no operation or effect whatsoever: Provided always, that nothing in this section contained shall affect in any way the priority herein-before given to any person claiming for valuable consideration under any registered assurance or disposition executed or made by any person claiming immediately or derivatively under an intestacy an affidavit of which shall have been registered under this Act, where such assurance or disposition shall have been duly registered prior to the noting of such intestacy as disputed.

Removal of
note of intestacy as disputed.

48. When the registration of any affidavit of intestacy shall have been noted as disputed under the provisions herein-before contained, if the proceedings for the purpose of obtaining probate of the will of the person in respect of whose intestacy such affidavit has been so registered as aforesaid, or of obtaining letters of administration with his will annexed, shall have terminated in the refusal of the court to grant probate of such will or such letters of administration, it shall be lawful for any person claiming under such intestacy to apply to the registrar to cancel the noting of such intestacy as disputed; and the registrar, upon proof to him in the prescribed manner of the termination of such proceedings in the manner aforesaid, shall cancel the noting of such intestacy as disputed, and upon such note being so cancelled the registration of such affidavit of intestacy shall have the same effect and operation as from the date of its registration as if such intestacy had not been noted as disputed: Provided always, that such proceedings shall not be

taken as having terminated within the meaning of this section and the section immediately following until after the expiration of the time allowed by law for appealing from the order granting or refusing such probate or such letters of administration, or if an appeal shall have been duly brought, until after the decision of such appeal.

A.D. 1890.

49. In the event of the proceedings for obtaining such probate or letters of administration with the will annexed terminating in the granting of such probate or such letters of administration with the will annexed, the registrar shall, upon proof to him in the prescribed manner of the granting of such probate or such letters of administration, cancel the registration of the affidavit of the intestacy of the person whose will shall have been so proved, or to whose effects letters of administration with the will annexed shall have been so granted, and thenceforth the registration of such affidavit of intestacy shall have no operation or effect whatsoever: Provided always, that nothing in this section contained shall affect in any way the priority herein-before given to any person claiming for valuable consideration under any duly registered assurance or disposition executed or made by any person claiming immediately or derivatively under an intestacy an affidavit of which shall have been registered under this Act, where such assurance or disposition shall have been registered prior to the cancelling of such registration.

Cancelling registration of affidavit of intestacy when will proved.

50. When probate of any will registered under this Act, or letters of administration with such will annexed, shall have been revoked by any court of competent jurisdiction, the registrar shall, upon proof to him in the prescribed manner of such revoking, cancel the registration of such will, and thenceforth the registration of such will shall have no operation or effect whatsoever: Provided always, that nothing in this section contained shall affect in any way the priority herein-before given to any person claiming for valuable consideration under any duly registered assurance or disposition made or executed by any person claiming immediately or derivatively under any will registered under this Act where such assurance or disposition shall have been registered prior to the cancelling of the registration of such will.

Cancelling registration of will probate of which has been revoked.

Registration of Caveats.

51. Any person may, by a requisition in writing under his hand in the prescribed form, delivered at the Registry Office, require a caveat in respect of any lands to be mentioned in such requisition

Power to enter a caveat.
[18 & 19 Vict. c. 78. s. 41.]

[383.]

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to be entered in the said office on behalf of any person described in such requisition; and the requisitions for caveats shall from time to time be made up into books or parcels and numbered in the prescribed manner. When such requisition is delivered by any person other than a solicitor, it shall be accompanied by an affidavit 5 in the prescribed form stating the interest of the person by whom it is delivered and the lands mentioned in such requisition.

Every caveat shall be in the prescribed form, and shall state—

1. The date on which it is delivered.
2. The name and addition of the person by whom it is delivered. 10
3. The name and addition of the person on behalf of whom it is delivered.
4. The time for which it is intended to remain in force, which shall not exceed *six months*.
5. The denominations upon the ordnance maps of the lands 15 intended to be affected by such caveat.

Made of entering caveats.

[15 & 14 Vict.
c. 72. s. 42.]

52. When a caveat shall be so required to be entered an entry shall be made in the books and indexes of the registry office in the prescribed manner, and expressing the like particulars as if the same were an assurance to be registered under this Act affecting 20 the lands mentioned in such caveat, and made by the person requiring such caveat to be entered.

Extent of protection to be afforded by caveats.

[15 & 14 Vict.
c. 72. s. 43.]

53. When a caveat shall be entered under this Act as to any lands, every person claiming for valuable consideration under any assurance affecting the same lands made by the person 25 by whom the entry of the caveat has been required, or any person claiming under him, to or with the concurrence of the person on behalf of whom the caveat was so entered, or his heirs, executors, administrators, or assigns, and duly registered in the manner directed under this Act within the period mentioned in the caveat after the caveat 30 shall have been so entered as to such lands, shall be entitled to the same priority, protection, and advantage under the provisions of this Act as if such assurance had been executed and registered at the time of entering the caveat.

The protection of caveats subjected to specified cases.

[15 & 14 Vict.
c. 72. s. 44.]

54. No caveat which shall be entered under the provisions of 35 this Act shall be of any force or effect, except by way of protection to a contract entered into at or before the date of the entry of the caveat, or by way of protection to an assurance for valuable consideration made or executed in pursuance of such contract, or by way of protection to any assurance for valuable consideration which 40 at the date of the entry of the caveat shall have been executed by

some one or more of the persons by whom the lands shall be conveyed or otherwise affected, or by way of protection to any assurance for valuable consideration which shall have been in contemplation at the date of such entry; and no caveat shall have any force or effect as against the operation of the bankruptcy of the person requiring any caveat to be entered, or any act under such bankruptcy.

A.D. 1890.

PART II.

HOW REGISTRATION SHALL BE EFFECTED.

10 *Ordnance Maps to be the basis of Registry.*

55. The ordnance maps of Ireland shall form the basis of registration under this Act, and of the indexes and books to be kept thereunder, and (except as herein-after expressly provided) every assurance or disposition registered under this Act shall be registered only against the denominations on the said ordnance maps in which the lands comprised in such assurance, or affected by such disposition, are situated.

Registration to be effected against denominations upon ordnance maps.

[13 & 14 Vict. c. 72. s. 1.]

Registration to be by Memorial.

56. Registration under this Act shall (except in the cases therein otherwise expressly provided for) be effected by the delivery to the registrar of a memorial in the prescribed form of the assurance or disposition proposed to be registered. The person delivering such memorial shall deliver with it a certificate in the prescribed form, stating the number of folios contained in the memorial, the number of grantors and of denominations of land, and stating (except in the case of provisional registration) that the denominations in the memorial are denominations appearing on the ordnance maps, and stating such other matters as may be prescribed. Every memorial shall be authenticated in such manner as may be prescribed.

It shall be the duty of the registrar at the prescribed time, and in the prescribed manner, to ascertain that such memorial complies with all the requirements of this Act; and in the case of an assurance or will (if such assurance or will shall be produced to the registrar) to compare the memorial with such assurance or will.

35 The rules under this Act may provide for the comparison of the memorial prior to registration, in certain particulars only, and for

Registration effected by delivery of memorial.

A.D. 1890. a subsequent comparison (if necessary) in order that the memorial may constitute a sufficient foundation for the books and indexes to be kept in the office, and on any such comparison the memorial may be amended by the registrar in any respect in which it is found to be erroneous.

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*Provision for
registering full
copy of
assurance or
disposition.*

57. The person delivering the memorial of an assurance or disposition may at the same time deliver to the registrar a copy of such assurance or disposition at full length, subject to the prescribed conditions; and it shall be the duty of the registrar to compare such copy with such assurance or disposition, if the same shall be produced to him, and, if it is a true copy of such assurance or disposition, to endorse upon such copy a certificate to that effect, in the prescribed form. A copy of such assurance or disposition, certified by the registrar, shall be delivered to any person requiring the same on payment of the prescribed fee, and such last-mentioned certificate shall be conclusive evidence that the copy so certified is a true copy of such assurance or disposition.

Contents of Memorial.

*Contents of
memorial of
assurance and
will.*

58. In the case of an assurance or will, the memorial shall be in the prescribed form, and shall contain the following statements:—

- (1.) The date of the assurance or will.
- (2.) The names and additions of all the parties thereto in the case of an assurance, and of the testator in the case of a will, and, in the case of an assurance, as to each of the parties, whether he is a grantor or a grantee.
- (3.) The lands comprised in or affected by the assurance or will and intended to be affected by the registration as the same are described in such assurance or will.
- (4.) Where the assurance or will does not contain any description of the lands, or where the description of the lands contained in the assurance or will does not correspond with the names of the denominations on the ordnance maps in which such lands are included, the memorial shall state the names of the denominations on the ordnance maps in which the lands comprised in or affected by the assurance or will, and intended to be affected by the registration are included.
- (5.) The county and barony in which each denomination of land is situated, or (in the case of lands, messuages, or tenements situated in a city) the city and parish in which each denomination is situated, whether or not the assurance or will shall mention such county and barony or city and parish, as the case may be.

- (6.) The nature of the assurance registered, specifying whether it is a marriage settlement, lease, mortgage, or what other description of assurance.

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59. In the case of an order affecting land, the memorial shall be in the prescribed form, and shall state :—
- (1.) The date of the judgment, decree, or order ;
- (2.) The title of the action, cause, or matter wherein the same purports to have been made ;
- (3.) The effect of the judgment, decree, or order, in relation to the lands against which it is registered ;
- (4.) The names and additions of the person whose estate is intended to be affected by the registration of such judgment, decree, or order, and of the person seeking to register the same ;
- (5.) The lands affected by such judgment, decree, or order, and intended to be affected by the registration, as the same are therein described ;
- (6.) The names of the denominations upon the ordnance maps of the lands affected by such judgment, decree, or order, and intended to be affected by the registration ;
- (7.) The county and barony, or city and parish in which such lands are respectively situated, in the same manner as is herein-before directed with reference to memorials for the registration of assurances.
- Every such memorial shall, previously to the same being deposited in the registry office, be compared with the judgment, decree, or order of which it purports to be a memorial, by some officer authorised to give out an office copy of such judgment, decree, or order, and shall be certified by the signature of such officer to contain a correct statement of such judgment, decree, or order, so far as such memorial purports to state the same ; and every such officer is hereby required to examine any such memorial, and certify the same (if correct) by his signature, on payment of the prescribed fee.

Contents and verification of memorial of judgment, decree, or order, affecting land.

60. In the case of a private Act of Parliament, vesting of lands, equitable mortgage, lien, judgment, *lia pendens*, recognizance, Crown bond, judgment at the suit of the Crown, or inquisition the memorial shall be in the prescribed form, and shall contain the following statements (in addition to any others required by this Act) :—
- (1.) The date of the passing of the Act of Parliament, of the vesting of the lands, of the equitable mortgage, of the lien, of

Contents of memorial in other instances.

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the judgment, of the recognizance, of the lls pendens, or of the inquisition, as the case may be;

- (2.) The names and additions of the person whose estate is intended to be affected by the registration, and of the person seeking to register such Act, instrument, or disposition; 5
- (3.) The names of the denominations upon the ordnance maps where the lands sought to be affected by such registration are situated; and
- (4.) The county and barony, or city and parish, as herein-before directed, with reference to abstracts for the registration of 10 assurances and wills.

Memorial
shall specify
denominations
on ordnance
maps.

61. Every memorial (other than a memorial for the purpose of provisional registration) and every affidavit of intestacy shall specify the denominations upon the ordnance maps in which the lands intended to be affected by the registration of the assurance 15 or disposition proposed to be registered, are included, and the county and barony in which each denomination is situated, or (in the case of lands, messuages, or tenements situated in a city) the city and parish in which each denomination is situated.

Provisional Registration in certain Cases.

20

Provisional
registration
where
ordnance de-
nominations
cannot be
stated.

62. Where the assurance or disposition sought to be registered shall contain no description of any part of the lands comprised therein or affected thereby, or where the names of the lands described in such assurance or disposition or some part thereof shall not correspond with the names of the denominations upon the ordnance maps, 25 and it shall be desired to register such assurance or disposition provisionally, in order to preserve its priority, and until a perfect registration can be effected, it shall be lawful for the person seeking to register such assurance or disposition to deliver to the registrar a memorial thereof in the prescribed form; whereupon, 30 and upon all the other requirements of this Act having been duly complied with, the registrar shall enter such assurance or disposition in the prescribed manner as provisionally registered, and shall give to the person registering the same a certificate to that effect.

Provisional
registration of
affidavit of
ownership.

63. An affidavit of ownership may be admitted to provisional 35 registration as of course upon the certificate of the person seeking to register the same, or his solicitor, that such affidavit does not correctly state the denominations upon the ordnance maps of the lands sought to be affected. If within the prescribed time there shall be delivered to the registrar a memorandum in the prescribed 40 form stating the denominations upon the ordnance maps of the

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lands intended to be affected by such registration, then the registration of such affidavit of ownership shall become absolute and effectual, to all intents and purposes, as of the date of such provisional registration, and the registrar shall cancel the entry of
5 such registration as provisional, and enter such registration in the books and indexes of the registry office as of the date of such provisional registration; but if such memorandum shall not be so delivered as aforesaid within the prescribed time, then such provisional registration shall be null and void, and of no effect
10 whatsoever.

64. If within the prescribed time from the provisional registration of any assurance or disposition a perfect memorial thereof shall be delivered to the registrar in the prescribed form, the registration of such assurance or disposition shall become absolute and effectual,
15 to all intents and purposes, as of the date of such provisional registration, and the registrar shall cancel the entry of such registration as provisional, and enter such registration in the books and indexes of the registry office as of the date of such provisional registration, and shall give a certificate of registration in the prescribed form; but
20 if a perfect memorial shall not be so delivered as aforesaid within the prescribed time after such provisional registration, then such provisional registration shall be null and void, and of no effect whatsoever.

Provisional registration to become absolute on production of perfect memorial.

65. The registrar shall not admit any assurance or disposition
25 (other than an affidavit of ownership) to provisional registration unless upon the production to him of an affidavit made by the person seeking to register the same, or his solicitor, stating that the immediate registration of such assurance or disposition is required, and that the person seeking to register the same is unable to
30 state the names of all the denominations upon the ordnance maps in which the lands mentioned in or affected by the assurance or disposition sought to be registered are situated.

Affidavit for purpose of provisional registration.

66. While any assurance or disposition shall remain provisionally registered the same assurance or disposition may be registered in the
35 ordinary manner by any person authorised to register the same, and in the event of such provisional registration becoming absolute, the subsequent registration of the same assurance or disposition shall be cancelled by the registrar, otherwise the same shall remain and be as valid and effectual as if the same assurance or disposition
40 had not been so provisionally registered as aforesaid.

Assurance or disposition provisionally registered may be also registered in the ordinary manner.

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Registration only effectual against Lands mentioned in Memorial.

Registration
only against
lands men-
tioned in
memorial.

67. No assurance or disposition registered under this Act by delivery of a memorial shall be considered as registered against any lands other than the lands mentioned in the memorial for the registration of the same; but the registration of any assurance or disposition as to certain of the lands comprised in or affected thereby shall not prevent the subsequent registration of the same assurance or disposition as to any other lands comprised therein or affected thereby. 5

Proof of Execution of Instrument Registered.

10

Assurances
duly attested
may be
registered
within a year
without proof
of execution.

68. Any assurance, the execution whereof by the grantor or each of the grantors therein, shall appear to be attested by two witnesses (at the least), whose names and addresses shall be thereto subscribed or therein stated, may be registered within *one year* from the date at which it purports to have been executed, without proof of execution, upon production of such assurance to the registrar; and for this purpose the date at which an assurance purports to have been executed shall, in the case of an assurance purporting to have been executed by more than one grantor at different times, mean the earliest date at which it purports to have been executed by any grantor. 15 20

Will duly
attested may
be registered
within two
years.
7 Will. 4.
and 1 Vict.
c. 26.
15 & 16 Vict.
c. 24.

69. Any will to which there shall be an attestation clause, by the terms of which it shall appear that the will was duly executed in accordance with the provisions of the Act passed in the first year of the reign of Her Majesty, chapter twenty-six, and of the Wills Act Amendment Act, 1852, may be registered within *two years* from the death of the testator, without proof of execution, upon production to the registrar of such will and an affidavit proving the date of the death of the testator. 25

Mode of
proving the
execution of
assurances
proposed to be
registered when
not so attested
or executed
more than a
year pre-
viously.

70. When any assurance proposed to be registered shall not appear to be so attested as aforesaid, or shall have been executed more than a year previously, or shall not be produced to the registrar, its execution shall be proved in the following manner: If the execution of such assurance by the grantor, or (if there be more than one grantor) by one or more of the grantors, is attested by one or more witness or witnesses, such witness, or one of such witnesses, shall by affidavit, in the prescribed form, prove the execution of such assurance by one or more of the grantors, as the case may be. But if there shall be no witness to the execution of the assurance by the grantor, or (if there be more 30 35 40

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- than one grantor) by any grantor, or although there be such witness, if he shall either be dead or cannot be found or shall be unwilling to make such affidavit, then, and upon the solicitor for the person proposing to register such assurance certifying the fact of the death of such witness, or that he cannot be found, or that he is unwilling to make such affidavit, the execution of such assurance may be proved by any person who shall by affidavit in the prescribed form, depose to the handwriting of the grantor in such assurance, or (if there be more than one grantor) of one or more of the grantors.
71. When any will proposed to be registered shall not have such an attestation clause as herein-before is mentioned, or shall have been executed more than two years previously, its execution shall be proved by one of the witnesses thereto by an affidavit in the prescribed form; provided, however, that any will, in respect of which probate, or letters of administration with the will annexed, shall have been granted by any court of competent jurisdiction, shall be admitted to registration at any time without proof of execution, upon production to the registrar of such probate, or letters of administration as the case may be, or a copy thereof respectively stamped with the seal of the court.

Made of proving the execution of wills when not so attested or executed more than two years previously.

Assurances or Wills more than Thirty Years Old.

72. When any assurance or will proposed to be registered shall be more than *thirty years* old, and its execution cannot be proved as herein-before provided, it shall be lawful for the person seeking to register the same to apply to the High Court, in the prescribed manner, for an order directing such assurance or will to be registered, and the High Court, if satisfied that such assurance or will comes from the proper custody, and that its execution cannot be proved as herein-before provided, may order that the same shall be registered; and the registrar, upon production to him of such order, shall register such assurance or will without requiring proof of its execution.

Assurances or wills more than thirty years old may be registered under an order of the Court.

Registration of Lost Assurances or Wills.

73. If any assurance or will proposed to be registered shall have been lost, it shall be lawful for the person seeking to register the same to apply to the High Court in the prescribed manner, for an order directing that a memorial of such assurance or will be received and registered; and the Court, if satisfied that such assurance or will has been lost, and if the contents and execution of such assurance or will shall be proved to its satisfaction, may order that a

Memorial of lost assurances or wills may be registered under an order of the Court.

[333.]

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memorial of such assurance or will be received and registered, and the registrar, upon production to him of such order, shall register such memorial without requiring proof of the execution of such assurance or will.

Certificate as to Memorial.

5

Certificate
as to correct-
ness of
memorial.

74. Any person registering any assurance other than a lost assurance or will, shall certify in writing that the contents of the memorial are correct, and if he shall wilfully sign a false certificate he shall be guilty of a misdemeanor.

Production of Assurance to Registrar.

10

Except in
certain cases
the assurance
or will to
be registered
shall be pro-
duced to the
registrar.

75. Every assurance or will proposed to be registered shall be produced to the registrar along with the memorial, except—

- (1.) Where such assurance or will, as the case may be, has been lost;
- (2.) Where a court of competent jurisdiction has granted probate 15 of such will or letters of administration with such will annexed, as the case may be; or
- (3.) Where such assurance has been executed out of Ireland by any grantor, or such will has been executed out of Ireland, and it is not sought to have such assurance or will, as the case 20 may be, registered under the provisions herein-before contained without proof of execution.

Certificate of Registration.

Registrar to
enter registra-
tion, and give
certificate to
person
registering.

76. The registrar upon the delivery to him of a memorial in the prescribed form, and upon proof of the execution of the assurance 25 or disposition proposed to be registered in the cases in which such proof is herein-before required, and upon all the other requirements of this Act having been complied with in the prescribed manner, shall register the assurance or disposition, a memorial of which has been so delivered to him, in the books of the registry office in the 30 prescribed manner. He shall also indorse a certificate of registration in the prescribed form on every assurance or will produced to him, and when the assurance or disposition registered has not been produced to him, shall give to the person registering the same a certificate in the prescribed form. 35

Certificate to
be conclusive
evidence of
registration.

77. Every such certificate shall be conclusive evidence that such assurance, or disposition has been duly registered at the time in such certificate stated, and a certificate of provisional registration as herein-before is mentioned shall be conclusive evidence that the

assurance or disposition therein mentioned has been duly provisionally registered at the time in such certificate stated.

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Proceedings when the Registrar shall refuse to accept Memorial.

78. When any memorial delivered to the registrar for the purpose of registration under this Act shall not comply with the requirements of this Act, or shall not be in the prescribed form, or shall contain statements other than those herein-before provided or prescribed by any rules made under this Act, the registrar shall refuse to receive such memorial, and shall if requested by the person tendering such memorial, deliver to such person a statement in writing of his reasons for such refusal. The registrar shall, if requested by the person tendering such memorial, enter in the prescribed manner a statement of the date of the assurance or disposition, a memorial of which was tendered for registration, and of the parties thereto, and the lands comprised in or affected thereby, and shall register the same conditionally.

Registrar shall refuse to accept memorial.

Conditional registration.

79. The person tendering such memorial may, if he be dissatisfied with the rejection of the same by the registrar, apply to the High Court, in the prescribed manner, within one month, for an order that such memorial be received by the registrar, within a time to be named in the order, and the court, if of opinion that such memorial is substantially in accordance with the provisions of this Act and of the general rules made thereunder, and ought to have been received by the registrar, may make an order to that effect.

Where registrar refuses to accept memorial, the party tendering it may apply to Court.

80. On production to the registrar of such order of the High Court within the time named therein, he shall receive such memorial, and shall proceed with the registration of the assurance or disposition of which it is a memorial, and such registration shall be effectual to all intents and purposes as of the date of such conditional registration.

Registrar to receive memorial when so ordered by Court.

Power to compel Registration in certain cases.

81. Any person claiming any interest in any lands under any assurance or will by this Act authorised to be registered, which has not been registered, may in writing require any person in possession of the original document, or (if there be duplicates) any one of the original documents, or (where the original document, or the several original documents, is or are lost) a copy of, or (where no copy is known to exist) an extract from the original document, or any of the original documents, to deliver or send

Any person claiming under an assurance may compel the registration thereof by application to Court.

[15 & 16 Vict. c. 78. s. 19.]

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the same at or to the registry office, for the purpose of its being registered, or to produce the same before a judge of the High Court for the purpose of having an order made in relation to the registration of the same; and in case the person in whose possession the same shall be refuse so to do, it shall be lawful 5 for a judge of the High Court, upon application in the prescribed manner, to make such order respecting the delivery or sending of such document or copy or extract as aforesaid, at or to the registry office, or the production thereof before such judge, for the purpose aforesaid, as to such judge, in the exercise of his 10 discretion, shall, under the circumstances of the case, appear proper. Provided always that nothing in this Act contained shall authorise any person to require or enforce the registration of any assurance, or will, or copy, or extract, in case any agreement or provision for the non-registration of such assurance or will shall have been made 15 by him or by any person from or through whom he derives an interest under such assurance or will. The costs of such application and of the registration of such assurance or will shall be in the discretion of the judge, and he may order that an attested copy of the original document, or of the copy or extract to be delivered 20 or sent as aforesaid, shall be furnished to the party by whom the same shall be so delivered or sent at the expense of the party by whom the application is made.

PART III.

SEARCHES.

25

All persons
may search
the books and
indexes kept
in the office.
[2 & 3 W. 4.
c. 37. s. 7.]

82. All persons interested in making searches in the registry office shall have full liberty to search and examine the indexes and books thereof, and to take abstracts or other short notes of any of the matters in such books, and also to inspect, in the presence of some person belonging to the said office, any original memorial or assurance 30 to which reference shall be obtained in such searches, upon every such person paying the prescribed fee or fees for such search and inspection respectively.

Common Search.

Any person
may, upon
requestion,
obtain a head
clerk's or com-
mon search
and certificate.
[2 & 3 W. 4.
c. 37. s. 8.]

83. Upon a request in writing being left in the registry office, 35 a head clerk's or common search shall be made, and a copy of the abstract of every memorial, and of every memorial found to come within the terms of the said request, shall be made, and shall be signed by one of the clerks upon the establishment of the said

office with his name, and also by one of the assistant registrars with the initial letters of his name, and with all convenient expedition the same shall be delivered to the party making the request; but it shall be lawful for the person making such request to except thereout any and every assurance or disposition of which he shall specify the date, description of assurance or disposition, and parties names, in a list at the foot of such request.

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Negative Search.

84. Every person who shall require a search and negative certificate to be made, shall lodge with the registrar a requisition in the prescribed form.

A search and negative certificate may be obtained.

[2 & 3 W. 4. c. 87. s. 22.]

85. The person making such requisition may limit or extend the search and certificate to one or several names of persons and to a general period only, or to any particular period in respect of each name, and to one or several denominations of land, and for a general period or for separate periods in respect of each denomination, or to both a name or names and a denomination or denominations as he shall think fit, and may also vary the terms of such requisition and exception, or either of them, to suit any number and variety of assurances or dispositions, dates, parties names, denominations of land, counties, baronies, and parishes, and in place of requiring an abstract of every registered memorial, may require a full copy of a particular memorial, or of any number of particular memorials, or of every memorial within any period or periods, and only an abstract of every other memorial coming within the terms of such requisition.

Requisition may be limited either as to names or period.

[2 & 3 W. 4. c. 87. s. 22.]

86. The registrar shall, upon the delivery of such requisition, as is mentioned in the last preceding section, file the same in the order in which it shall be received, and shall with all due diligence cause a search to be made and give to the person making such requisition a certificate in the prescribed form.

Requisition for negative search to be filed and certificate to be given.

[2 & 3 W. 4. c. 87. s. 22.]

87. The abstract of each memorial registered before the commencement of this Act inscribed in such certificate shall be in the prescribed form, and shall set forth, as far as may be done from the memorial, the particulars mentioned in that form, and a copy of every memorial registered under this Act within the terms of the requisition shall be inscribed in such certificate.

Certificate to contain abstracts of memorials registered before the Act, and copies of memorials registered under the Act.

[2 & 3 W. 4. c. 87. s. 22.]

88. When any purchaser or party acquiring an interest in any lands shall be entitled to require of a vendor or party parting with such interest a negative search, the latter shall only be obliged to provide and furnish to the former a negative certificate of search with an abstract in the prescribed form of every memorial registered

Vendor to furnish only a negative search, with an abstract of every memorial and copy of

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every memorial
not excepted.
[3 & 4 W. 4.
c. 87. s. 27.]

before the commencement of this Act, and a copy of every memorial registered under this Act in the said office within the period comprised in such search: Provided always, that in every such case the requisition for such search shall contain no exception unless the purchaser or party acquiring such interest, or his, her, or their attorney shall have agreed in writing that an exception of a particular memorial or memorials, abstract or abstracts, shall be made in such requisition.

Searches for Judgments.

Requisitions
for searches
for judgments,
revivals, &c. in
the registry
office.

38. Any person who may after the commencement of this Act require a search to be made in the Registry of Deeds for judgments, revivals, recognizances, Crown bonds, judgments at the suit of the Crown and inquisitions, and lis pendens, or any of them, and a certificate of such search to be given, may lodge with the registrar a requisition in the prescribed form. The Registrar of Deeds shall upon the lodgment of such requisition file the same in the order in which it shall be received, and shall with all due diligence cause a search to be made, and give to the person delivering such requisition a certificate in the prescribed form.

Duplicates.

Requisitions
for duplicate
searches in
registry
office.

39. Any person who may after the commencement of this Act require a duplicate of any search made and certificate given, or a copy of any search which may have been recorded under the statutes in force before the commencement of this Act, may lodge with the Registrar of Deeds a requisition in the prescribed form, and the registrar shall, upon the lodgment of such requisition, with all due diligence cause such duplicate or copy to be made and given to the person requiring the same with a certificate at the foot thereof or appended thereto, stating that the same is a duplicate of the search and certificate in such requisition mentioned or a copy of the recorded search, as the case may be.

Duplicate to
have the
effect of
original.

40. Every such duplicate or copy so certified as aforesaid shall have the same force and effect, and shall be accepted and received in the same manner and for the same purposes as an original certificate or recorded search to the same extent and in the same terms.

Requisitions.

Requisition by
solicitors.
[3 & 4 W. 4.
c. 87. s. 27.]

41. Any person may lodge a requisition by his solicitor; but in that case it must be expressly stated in the requisition that the solicitor lodging the same is the solicitor for the persons on behalf of whom the requisition is lodged.

PART IV.

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CONSTITUTION OF THE OFFICE.—STAMPS AND FEES.

93. From and after the commencement of this Act the registry office established by the Act of the sixth year of the reign of Queen Anne, chapter two, shall be carried on under the provisions of this Act, and all books and documents at any time used or kept in the said registry office shall be public property, and be preserved as herein-after mentioned.

Existing registry office to be carried on under the Act.

There shall be kept in the registry office such indexes and books as shall be prescribed.

94. The registry office shall be kept open to the public for business from the hour of *ten* in the forenoon until the hour of *four* in the afternoon of every day in the year, excepting only Saturdays, on which day the office shall be closed to the public at *two* in the afternoon: Provided that the office shall be kept closed on Sundays, Good Friday, Easter Monday, Whitsun Monday, Christmas Day, and the two week days next after Christmas Day, and on days of public fast and thanksgiving.

Days and hours of business in the office.
[3 & 4 W. 4, c. 57, s. 6.]
[46 & 47 Vict. s. 20.]

95. The establishment of the registry office shall consist of a registrar, and such officers and clerks, with such salaries or remuneration as the Treasury shall from time to time think fit, to be paid out of moneys to be provided by Parliament. Nothing herein contained shall affect the tenure of office or salaries or remuneration of the existing registrar or either of the existing assistant registrars.

Official staff.
[3 & 4 W. 4, c. 57, s. 2.]

(1.) On and after the first vacancy in the office of registrar after the commencement of this Act, the following provisions shall take effect with respect to that office. Any person appointed to be registrar shall be a person then serving in the office of not less than *ten years* service, or a practising barrister or solicitor of not less than *ten years* standing, or a person who has served as registrar of judgments for not less than *ten years*; he shall be appointed by the Master of the Rolls, and he or any officer or clerk in the office may be removed for inefficiency or misconduct.

(2.) The registrar, before entering upon office, shall give security for the due performance of the duties of his office in such manner and to such amount as the Treasury may direct.

(3.) Persons appointed after the commencement of this Act to be officers or clerks in the registry office shall be appointed by the Treasury and shall have such qualifications as the Treasury shall from time to time prescribe, and shall hold their offices by the tenure of ordinary civil servants of the Crown.

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Registrar not
to sit in Parlia-
ment.[2 & 3 W. 4.
c. 87, s. 36.]Officers to not
sit in person, and
not by deputy.

96. No person holding the office of registrar shall be capable of being elected to or of sitting or voting in Parliament.

97. The registrar and all other persons employed in the registry office shall execute their respective offices in person, and not by deputy, unless where a deputy for the registrar or any such person shall, with the approval of the Treasury, be appointed for that purpose by the Master of the Rolls in the case of temporary illness or other unavoidable cause of absence; and no officer of the registry office shall, during the term of his holding office, directly or indirectly practise as a barrister or solicitor, or participate in the fees of any other person so practising.

Office to be
under the
management of
the registrar.[2 & 3 W. 4.
c. 87, s. 3.]

98. The management and superintendence of all departments in the office shall devolve upon the registrar as his duty; but in order to facilitate the business of the registry office (but nevertheless without in any way diminishing the responsibility of the registrar for any act or omission) the assistant registrars and any officer who may hereafter be appointed to discharge duties analogous to those of the existing assistant registrars, shall respectively be, and each of them is hereby empowered, for and on behalf of the registrar, during a vacancy in the office of registrar, to take affidavits, sign official documents, and do all official acts necessary in the execution of the duties of the registry office.

Stamps and Fees.

Fees payable
in the office.[2 & 3 W. 4.
c. 87, s. 5.]

99. The Treasury, with the concurrence of the Lord Chancellor, may by order fix, and may from time to time alter, or vary the fees to be taken in the registry office, or any of them, to the intent that the same shall be justly apportioned, and that no greater fees shall be charged than will amount to a sum sufficient to discharge the expenses of the registry office. The fees taken at the time of the commencement of this Act shall continue to be taken until an order is made under this section, and thereafter in so far as they are not varied by such order. The Public Offices Fees Act, 1879, shall apply to the Registry Office, and to the fees appointed to be taken therein.

43 & 44 Vict.
c. 58.No document
to be received
or used unless
stamped.[27 & 28 Vict.
c. 76, s. 6.]

100. If at any time it shall appear that any document has through mistake or inadvertence been received, or filed, or used without having the proper stamp impressed thereon or affixed thereto, it shall be lawful for a judge of the High Court, if he thinks fit, to order that such stamp shall be impressed thereon or affixed thereto, and thereupon when a stamp shall have been

impressed on such document or affixed thereto in compliance with any such order, such document and every proceeding in reference thereto shall be as valid and effectual as if such stamp had been impressed thereon or affixed thereto in the first instance.

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PART V.

GENERAL RULES, AND MISCELLANEOUS PROVISIONS.

101. The Master of the Rolls, with the approval of the Lord Chancellor, shall prepare such a code of rules as he may think best adapted for carrying out the provisions and objects of this Act, and for the regulation and management of the registry office, consistent in all respects with the provisions of this Act. Such rules shall provide for the indexes and books to be kept in the said office, and for the mode of entering therein the registration of assurances, wills, and other acts, instruments, and dispositions by this Act authorised to be registered, and shall also provide for the several matters in this Act mentioned as to be prescribed, and shall also provide for the searches to be made and certificates to be given, so far as they are not provided for by this Act.

General rules to be framed after passing of Act.

102. The Master of the Rolls, with the approval of the Lord Chancellor, shall on or before the *first day of December, one thousand eight hundred and ninety*, and afterwards as he may think necessary, settle and prescribe forms of memorials, of affidavits, of requisitions for searches, of certificates of searches, and of certificates of registration of assurances, or dispositions, and also such other forms or directions as he may deem requisite or expedient for carrying out the provisions of this Act.

Forms and directions to be settled.

103. The authority for the time being having power to make rules of court for the purposes of the Supreme Court of Judicature Act (Ireland), 1877, may, in the manner prescribed by the sixty-first section of the same Act, make rules of court as to all or any of the following matters, that is to say:

Rules for the keeping of the Index.
40 & 41 Viet. c. 57.

1. As to the office of the High Court wherein the index of judgments is to be kept.
2. As to the manner in which such index is to be constructed and kept.
3. As to the judgments which are to be indexed.

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4. As to the method which is to be followed for supplying information for the construction and keeping of the index; and
5. As to the transfer of books, indexes, and other documents from the Registry of Judgments to the Registry of Deeds, or to such public office or offices as they shall direct; and they may determine the time at which every such transfer shall be carried out.

On introduction of printing in office, rules may be altered.

104. The Treasury, with the consent of the Master of the Rolls, may at any time direct that printing or any scientific improvement shall be introduced and made use of in the registry office, and may make such provisions as they may think fit for the purpose of having the efficiency of any mechanical inventions or other improvements tested, by the adoption of the same for a limited period, or for certain defined purposes, and may direct the adoption of any mechanical or other inventions or improvements in relation to the making and keeping of the indexes and books in the registry office, or in relation to the making of searches therein; and so soon as printing or other improvements shall be introduced into the registry office in lieu of scrivenery, it shall be lawful for the Master of the Rolls, with the approval of the Lord Chancellor (notwithstanding anything herein contained to the contrary), by general rules, to substitute for a memorial of any assurance or disposition a full copy or counterpart thereof, and to direct in what manner such copy or counterpart shall be made, and how it shall be authenticated for registration, and generally to make such further and other rules for the management and regulation of the registry office, and the mode of conducting the business thereof, as the introduction of printing or any scientific improvements shall render necessary or expedient.

Extension of Time.

Extension of time may be granted for good cause.

105. In any case in which this Act provides, or in which any rule to be made as herein-before is mentioned shall provide, that any matter or thing may only be done within a fixed time, the Court may, for good cause, extend the time fixed by this Act, or such rule, as the case may be, on application made in the prescribed manner either before or after the expiration of that time.

Affidavits.

Vermons before whom affidavits for

106. Affidavits for any purpose under this Act may be sworn before the registrar or such other officer as the Master of the Rolls may direct by any rules to be made as herein-before is provided

(each of whom is hereby empowered and required to administer oaths); or before a judge of assize; or before any justice of the peace; or before a person authorised by law to take affidavits in causes and matters depending in the High Court.

A.D. 1860.
—
purposes of
Act may be
sworn.

- 5 **107.** *It shall be lawful for the Treasury, from time to time, out of such moneys as may be provided by Parliament for that purpose, to defray the expenses of compiling, transcribing on parchment, and completing any memorials, transcripts, or indexes, remaining incomplete in the registry office, and of printing the same, or any*
 10 *part or parts thereof, and also of preparing the books directed by this Act to be prepared, and also of introducing printing or scientific improvements into the registry office, and also of the adoption of such inventions or improvements as are herein-before mentioned, or of testing the efficiency of the same; and it shall*
 15 *be lawful for the Treasury to make such provisions as they may think proper for having copies of the Ordnance maps and indexes kept under the control of the clerks of the various unions throughout Ireland, or other public officers, for the use of the public, in order to facilitate registration under this Act.*

Treasury
may defray
expenses of
compiling
indexes, &c.
[3 & 4 W. 4.
c. 81. s. 34.]

- 20 **108.** In all proceedings before any court for all purposes whatsoever an office copy of any memorial registered in the registry office shall, upon such office copy being proved in like manner as an office copy of any other record, be received and taken as evidence of the contents of the memorial of which it purports to
 25 be an office copy without the production of the original memorial.

Office copies
of memorials
to be received
in evidence.
[3 & 4 W. 4.
c. 81. s. 35.]

- 109.** If any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, or knowingly act or assist in forging or counterfeiting the name, signature, or handwriting of any officer of the registry office, in any case in which the signature of such
 30 officer is or shall be required or authorised to be made; or shall forge or counterfeit, or cause or procure to be forged or counterfeited, or knowingly act or assist in forging or counterfeiting the name, signature, or handwriting of any person whomsoever to any document which is or shall be required or directed to be signed by
 35 such person; or shall, with an intention to defraud any person whomsoever, use any document, the signature to which shall be so forged or counterfeited as aforesaid, knowing the same to be forged or counterfeited; or shall sign his own name, or cause or procure the signature of the name of any other person to any certificate or
 40 other writing requiring to be signed by an officer of the registry office; or shall use any such certificate or other writing with the intent to defraud thereby any person whomsoever, any such person

Parliament
for forging
signature
required by this
Act, &c.
[13 & 14 Vict.
c. 72. s. 62.]

A.D. 1890. — so offending, being thereof lawfully convicted, shall be and is hereby declared guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding *two years*, with or without hard labour

Registrar of Judgments.

5

Officers in
Registry of
Judgments.
40 & 41 Vict.
c. 57.

110. The Registrar of Judgments, and the clerk in the Registry of Judgments, shall, notwithstanding the abolition of that office, be attached to the Supreme Court of Judicature, and shall be subject to all the provisions relating to officers contained in the Supreme Court of Judicature Act (Ireland), 1877, as amended by any other Act, 10 and the paragraph of the seventy-second section of the Supreme Court of Judicature Act (Ireland), 1877, as amended by any other Act, which relates to the power to transfer an officer from a Division in which his services are not required to some other office of the High Court or some Division thereof, shall apply to the 15 Registrar of Judgments and to the clerk in the Registry of Judgments as though they were officers attached to a Division; with this addition in the case of the clerk, that he may be transferred by the Lord Chancellor, with the concurrence of the Master of the Rolls, to the Registry, and may be required to perform such duties in that 20 office as the Master of the Rolls may appoint. If in the case of either of the said officers a transfer is not effected within the prescribed time the officer not transferred shall be released from office and shall be entitled to such compensation as the Treasury shall consider reasonable and proper, having regard to his tenure of office, and to all the 25 other circumstances of the case.

Repeals and Savings.

Repeal of
former Acts.

111. From and after the commencement of this Act the several Acts and parts of Acts set forth in the schedule to this Act annexed shall be, and the same are hereby repealed. 30

Priority of
assurances
registered
under repealed
Acts.

112. Every assurance or disposition registered under any of the several Acts of Parliament repealed by this Act shall have the same priority as the same would have had if such Acts respectively had not been repealed.

Act not to
necessitate
registration of
assurances, &c.
executed
before its
commence-
ment which.

113. Subject to the provisions of this Act relating to the regis- 35 tration and re-registration in the Registry of Deeds of the judgments and other dispositions heretofore requiring registration or re-registration in the registry of judgments, and subject also to the provisions of this Act relating to the registration of wills where the

testator shall die after the commencement of this Act, nothing contained in this Act shall be construed as requiring the registration of any assurance or disposition executed or made before the commencement of this Act, when under the law as it previously existed such assurance or disposition would not have required registration in the Registry of Deeds.

A.D. 1890.

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require regis-
tration.

114.—(1.) Where the registration in the Registry of Deeds of any in assurance or disposition is provided for by any Act of Parliament force at the commencement of this Act, such assurance or disposition may be registered under this Act (subject to the provisions of the same), and the provisions of any such Act of Parliament with regard to the registration of any such assurance or disposition shall be satisfied by the registration of the same under this Act.

Effect of
registration
under the Act
of a testator
directed to be
registered
under any
Act of Parlia-
ment.

(2.) This section shall apply to the duplicate of an order with respect to the making of a loan made by the Commissioners of Public Works in Ireland and required to be registered in the Registry of Deeds under the provisions of the Act of the session of the tenth and eleventh years of Her present Majesty, chapter thirty-two.

10 & 11 Vict.
c. 52.

115. In this Act, unless there is something in the context inconsistent therewith,—

Interpretation
clause.

"Addition" means description as to residence, title, rank, profession, condition, or occupation.

"Assurance" means any deed, conveyance, or writing in the nature of a conveyance (other than a will), whereby any estate or interest in, or charge upon land is created, appointed, conveyed, assigned, extinguished, evidenced, or affected, at law or in equity, and unless where the contrary is expressly provided, includes every assurance whether executed or made before or after the commencement of this Act.

"City" includes town, borough, county of a town, county of a city, and county of a town and city.

"Devisee" means any person taking any estate or interest in land under a will, including an administrator with the will annexed, and includes any person claiming through or under an immediate devisee.

"Disposition" means any act, instrument, affidavit of ownership or matter affecting land, and any dealing with land, other than an "assurance," as herein-before defined, and unless where the contrary is expressly provided includes every disposition whether executed or made before or after the commencement of this Act.

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A.D. 1860.

"Execution" includes signature, in the case of assurances not under seal.

"Grantee" means any party to an assurance other than a grantor, and includes any person claiming through or under an immediate grantee. 5

"Grantor" means any party to an assurance by whose execution of such assurance any estate, interest, or charge in or upon land, is created, appointed, conveyed, extinguished, evidenced, or affected; and in the case of a disposition affecting land, shall mean every person whose estate or interest in such land 10 is affected by the disposition.

"Judgment mortgage" means an affidavit of ownership registered under the provisions of the Act of the session of the thirteenth and fourteenth years of the reign of Her Majesty, chapter twenty-nine, and any Act amending the same, or 15 under the provisions of this Act.

"Land" includes lands, tenements, or hereditaments of any tenure, held for any estate, legal or equitable, and whether corporeal or incorporeal, and any undivided share thereof, and any estate or interest therein; and also any charge upon, or 20 issuing out of lands, tenements, or hereditaments, whether such charge be or be not secured by a term of years, or by any other estate in lands, tenements, or hereditaments.

"Lease" includes an agreement for a lease.

"Lord Chancellor" includes Lord Commissioners and Lord Keeper 25 of the Great Seal of Ireland.

"Master of the Rolls" means Master of the Rolls in Ireland.

"Prescribed" means prescribed by any general rules made, or forms or directions issued, in pursuance of this Act.

"Registrar" and "general rules" mean such "registrar" 30 and "general rules" as are in this Act respectively in that behalf mentioned, and "registrar" includes assistant registrar or deputy registrar.

"Registry office" means the office for registering assurances and dispositions under this Act. 35

7 & 8 Vict.
c. 90.

"Registry of Judgments" means the office established by the Act of the session of the seventh and eighth years of the reign of Her present Majesty, chapter ninety.

"Will" includes a codicil and any testamentary document executing a power of appointment. 40

SCHEDULE to which the foregoing Act refers.

A.D. 1890.

[NOTE.—Some enactments which have been already repealed are included in this schedule, to avoid the necessity of reference to previous statutes.]

Date of Act.	Title of Act.	Extent of Repeal.
5 6 Anne, c. 2. (I.) - 10	An Act for the public registering of all deeds, conveyances, and wills that shall be made of any honours, manors, lands, tenements, or hereditaments.	The whole Act.
8 Anne, c. 10. (I.) - 15	An Act for amending an Act intitled An Act for the public registering of all deeds, conveyances, and wills that shall be made of any honours, manors, lands, tenements, or hereditaments.	The whole Act.
20 8 Geo. I. c. 15. (I.) - 25	An Act for explaining and amending two several Acts in relation to the public registering of all deeds, conveyances, and wills.	The whole Act.
25 Geo. III. c. 47. (I.) - 30	An Act for amending the several laws relating to the registering of wills and deeds in the registry office of this Kingdom, and for the better regulating and conducting the business of the said office.	The whole Act.
35 3 Geo. IV. c. 116. - 40	An Act for the more convenient and effectual registering in Ireland deeds executed in Great Britain.	The whole Act.
40 9 Geo. IV. c. 57. - 45	An Act to provide for the regulation of the public office for registering memorials of deeds, conveyances, and wills in Ireland.	The whole Act.

A.D. 1890.

Date of Act.	Title of Act.	Extent of Repeal.	
10 Geo. IV. c. 69.	" An Act to consolidate " and amend the laws " relating to the man- " agement and improve- " ment of His Majesty's " woods, forests, parks, " and chases; of the land " revenue of the Crown " within the survey of " the Exchequer in Eng- " land; and of the land " revenue of the Crown " in Ireland; and for " extending certain pro- " visions relating to the " same to the Isle of " Man and Alderney."	Section 62.	5
2 & 3 Wm. IV. c. 87.	An Act to regulate the office for registering deeds, conveyances, and wills in Ireland.	The whole Act.	10 15 20
7 & 8 Vict. c. 90.	An Act for the protection of purchasers against judgments, Crown debts, lis pendens, and com- missions of bankruptcy, and for providing one office for the registering of all judgments in Ire- land; and for amending the laws in Ireland re- specting bankrupts and the limitation of ac- tions.	Sections 2, 3, 4, 5, 10, and 11; the proviso at the end of sec- tion 17; section 21, section 22, so far as relates to the appoint- ment and duty of the Registrar of Judgments, section 40.	25 30 35
11 & 12 Vict. c. 120.	An Act to facilitate the transfer of landed pro- perty in Ireland.	The first nine sections and the schedule.	
12 & 13 Vict. c. 106.	An Act to amend the Acts for the more effectual relief of the destitute poor in Ireland.	Section 18.	40
13 & 14 Vict. c. 29.	An Act to amend the laws concerning judgments in Ireland.	The whole Act except section 12.	45
13 & 14 Vict. c. 72.	An Act to amend the laws for the registration of assurances of lands in Ireland.	The whole Act.	

Date of Act.	Title of Act.	Extent of Repeal.
13 & 14 Vict. c. 74. - 5	An Act for the better regulation of the office of Registrar of Judgments in Ireland.	The whole Act.
20 & 21 Vict. c. 60. - 10	The Irish Bankrupt and Insolvent Act, 1857.	Section 336, the part in the words following, "and registered according to the provisions of the Act of the seventh and eighth years of the reign of Her present Majesty, chapter 90." Section 336.
21 & 22 Vict. c. 105. - 15	An Act to amend an Act of the thirteenth and fourteenth years of Her present Majesty, to amend the law concerning judgments in Ireland.	The whole Act, except section 2.
27 & 28 Vict. c. 76. - 25	An Act to make valid defective registration of deeds in certain cases, and to substitute stamps in lieu of the fees now payable on proceedings in the Registrar of Deeds Office in Ireland.	The whole Act, except sections 1 and 2.
34 & 35 Vict. c. 72. - 30 35	An Act for the further protection of purchasers against Crown Debts, and for amending the laws relating to the office of the Registrar of Judgments and other offices of the Court of Chancery, Ireland.	The whole Act, except sections 1, 23, and 24, and Schedule A. Schedules B and C.
38 & 39 Vict. c. 5. -	An Act to amend the law relating to the Registry of Deeds Office, Ireland.	The whole Act.
46 & 47 Vict. c. 20. - 40	The Registry of Deeds Office (Ireland) Holidays Act, 1882.	The whole Act.

Registration of Assurances (Ireland).

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B I L L

To consolidate and amend the Laws relating to
the Registration of Deeds and Judgments,
and to provide for the Registration of other
assurances, acts, and matters affecting Land
in Ireland.

*(Prepared and brought in by
Mr. Attorney General for Ireland and
Mr. Arthur Balfour.)*

*Ordered, by The House of Commons, to be Printed,
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